

## **SEC. 10-1.100 GENERAL PROVISIONS**

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### **SEC. 10-1.105 TITLE.**

This title shall be known and may be cited and referred to as the “Hayward Zoning Ordinance.”

### **SEC. 10-1.110 PURPOSE.**

The purpose of this Zoning Ordinance is to promote the public health, safety, general welfare and preserve and enhance the aesthetic quality of the City by providing regulations to ensure an appropriate mix of land uses in an orderly manner. In furtherance of this purpose the City desires to achieve a pattern and distribution of land uses which generally:

- a. Retain and enhance established residential neighborhoods, commercial and industrial districts, regional-serving uses, and recreational amenities.
- b. Allow for the infill and reuse areas at their prevailing scale and character.
- c. Accommodate expansion of development into vacant and under utilized lands within environmental and infrastructure constraints.
- d. Maintain and enhance significant environmental resources.

- e. Provide a diversity of areas characterized by differing land use activity, scale and intensity.
- f. Establish Hayward as a unique and distinctive place in the heart of the San Francisco Bay Area with a high quality of life in an attractive, secure environment for the City's residents and businesses.

**SEC. 10-1.115 AUTHORITY AND GENERAL PLAN CONSISTENCY.**

- a. This Zoning Ordinance is a tool for implementing the goals, objectives, and policies of the Hayward General Plan, pursuant to the mandated provisions of the State Planning and Zoning Law, the California Environmental Quality Act, and other applicable State and local requirements. All developments within the unincorporated area of the City's Sphere of Influence should be consistent with the Hayward General Policies Plan. All new development within the incorporated area of the City shall be consistent with the General Policies Plan.
- b. The provisions of this Zoning Ordinance are intended to supplement the City's Subdivision Ordinance (adopted as required by the Subdivision Map Act), and the latest edition of the California Uniform Building Code as adopted by the City Council shall prevail. When the provisions of this Zoning Ordinance conflict with any provision of the City's Subdivision Ordinance or the Uniform Building Code, the most restrictive or that imposing higher standards shall apply.
- c. The type and intensity of land use as shown on the General Plan Map and any applicable specific plan shall determine, together with this Zoning Ordinance and the City's Subdivision Ordinance, the type of streets, roads, highways, utilities and public services that shall be provided by the developer.

**SEC. 10-1.120 REVIEWING AUTHORITIES.**

- a. The City Council shall have final decision authority over appeals of the Planning Commission, Specific Plans, General Plan amendments, Zoning Ordinance amendments and zone changes. The Council may also impose conditions of approval.
- b. The Planning Commission shall prepare, recommend adoptions, implement and periodically review and recommend revisions to the General Plan and this Zoning Ordinance for the desired physical development of the City, and any land within its Sphere of Influence. Decisions by the Planning Commission shall be final for appeals and referrals of Site Plan Reviews, Administrative Use Permits, Conditional Use Permits and Variances unless appealed to the City Council. The Commission may also impose conditions of approval and make interpretations of the General Plan and Zoning Ordinance, which may be appealed to the City Council.
- c. The Director of Development Services, hereinafter referred to as 'Planning Director,' shall perform the duties and functions of day-to-day and long-range management of the Development Services Department. This includes the acceptance and processing of all land use permit applications (i.e., variances, development permits, etc.). All officers and

employees who have the primary responsibility for the administration and interpretation of this Zoning Ordinance may act in his or her stead. The Planning Director has final approval authority for and enforcement of Administrative Use Permits, Site Plan Reviews, and Administrative Variances and extensions of time. In addition, the Planning Director may impose conditions of approval or make interpretations of this Zoning Ordinance. Any decision of the Planning Director regarding the entitlements referenced above may be appealed to the Planning Commission.

### **SEC. 10-1.125 ESTABLISHMENT OF ZONING DISTRICTS.**

Zoning districts are designated as follows:

#### **RESIDENTIAL**

- RS - Single-Family Residential District
- RNP - Residential Natural Preservation District
- RM - Medium Density Residential District
- RH - High Density Residential District
- RO - Residential-Office District
- MH - Mobile Home Park District

#### **COMMERCIAL**

- CN - Neighborhood Commercial District
- CN-R - Neighborhood Commercial - Residential District
- CG - General Commercial District
- CO - Commercial Office District
- CL - Limited Access Commercial District
- CB - Central Business District
- CR - Commercial Retail District

#### **CENTRAL CITY**

- CC-C - Central City - Commercial District
- CC-P - Central City - Plaza District
- CC-R - Central City - Residential District

#### **INDUSTRIAL**

- I - Industrial District
- BP - Business Park District
- LM - Light Manufacturing, Planning/Research and Development District

#### **AIR TERMINAL**

- AT-AC - Air Terminal - Aviation Commercial District
- AT-C - Air Terminal - Commercial District
- AT-IP - Air Terminal - Industrial Park District
- AT-O - Air Terminal - Operations District
- AT-R - Air Terminal - Recreational District
- AT-RM - Air Terminal - Medium Density Residential District

**OPEN SPACE**

- A - Agricultural District
- FP - Flood Plain District
- OS - Open Space District

**PUBLIC FACILITIES**

- PF - Public Facilities District

**SPECIAL DISTRICTS**

- B - Special Lot Standards Combining Districts
- PD - Planned Development District
- SD-1 - “B” Street Special Design Streetcar District
- SD-2 - Mission Corridor Special Design District
- SD-3 - Cottage Special Design District

**SEC 10-1.130 ESTABLISHMENT OF ZONING DISTRICT MAPS.**

The designations, locations, and boundaries of the aforesaid Districts are hereinafter set forth by reference to a Zoning District Index Map on file with the City Clerk and Community and Economic Development Department. Said maps and all notations, references, data, and other information shown thereon are hereby adopted and made a part hereof.

**SEC. 10-1.135 EXCEPTIONS.**

The following uses are exempted by this Zoning Ordinance and are permitted in any district: Poles, towers, wires, cables, conduits, vaults, laterals, pipes, mains, valves or any other similar distributing and transmitting equipment for telephone or television communications, electric power, gas, water and sewer lines provided that the installation shall conform when applicable with Federal Communications Commission, State Public Utilities Commission, and Federal Aviation Agency rules and regulations, or any other authorities having jurisdiction and subject to other provisions of this Ordinance, other City ordinances, rules and regulations. This exception does not include any such facilities needed for wireless telecommunications (refer to Article 13 of Chapter 10 of the Hayward Municipal Code, the Antenna and Telecommunications Facilities Ordinance).

**SEC. 10-1.140 EXCLUSIONARY ZONING ORDINANCE.**

When a use is not specifically listed in the sections devoted to “Uses Permitted,” it shall be assumed that such uses are prohibited unless it is determined by the Planning Director or on appeal to the Planning Commission that the use is similar to and not more objectionable or intensive than the uses listed. Further, uses are permitted and conditions to use are established within each district as set forth herein.

**SEC. 10-1.145 REASONABLE ACCOMMODATION.**

A. Purpose. The purpose of this Section is to provide a procedure for individuals with disabilities to request reasonable accommodation in seeking equal access to housing under the federal Fair Housing Act and the California Fair Employment and Housing Act (hereafter “Acts”) in the application of zoning laws and other land use regulations, policies, and procedures.

B. Applicability.

1. A request for reasonable accommodation may be made by any person with a disability or their representative, when the application of a requirement of this zoning code or other City requirement, policy, or practice acts as a barrier to fair housing opportunities. For the purposes of this section, a “person with a disability” is any person who has a physical or mental impairment that limits or substantially limits one or more major life activities, anyone who is regarded as having such impairment or anyone who has record of such impairment. This section is intended to apply to those persons who are defined as disabled under the Acts.
2. A request for reasonable accommodation may include a modification or exception to the rules, standards, and practices for the siting, development, and use of housing or housing-related facilities that would eliminate regulatory barriers and provide a person with a disability equal opportunity to housing of their choice.
3. A reasonable accommodation is granted only to the household that needs the accommodation and does not apply to successors in interest to the site.
4. A reasonable accommodation may be granted in compliance with this Section without the need for the approval of a variance.

C. Procedure.

1. A request for reasonable accommodation shall be submitted on an application form provided by the Development Services Department or in the form of a letter to the Director of Development Services, and shall contain the following information:
  - a) The applicant’s name, address, and telephone number;
  - b) Address of the property for which the request is being made;
  - c) The current use of the property;
  - d) The basis for the claim that the individual is considered disabled under the Acts, including verification of such claim;

- e) The zoning code provision, regulations, or policy from which reasonable accommodation is being requested; and
    - f) Why the reasonable accommodation is necessary to make the specific property accessible to the individual.
  - 2. If the project for which the request for reasonable accommodation is being made requires some other discretionary approval (including use permit, design review, etc.), then the applicant shall file the information required by Subsection C1 of this Section for concurrent review with the application for discretionary approval.
  - 3. A request for reasonable accommodation shall be reviewed by the Director of Development Services or his/her designee, if no approval is sought other than the request for reasonable accommodation. The Director or his/her designee shall make a written determination within 45 days of the application being deemed complete and either grant, grant with modifications, or deny a request for reasonable accommodation.
  - 4. A request for reasonable accommodation submitted for concurrent review with another discretionary land use application shall be reviewed by the Planning Commission. The written determination on whether to grant or deny the request for reasonable accommodation shall be made by the Planning Commission in compliance with the applicable review procedure for the discretionary review.
- D. Approval Findings. The written decision to grant or deny a request for reasonable accommodation will be consistent with the Acts and shall be based on consideration of the following factors:
- 1. Whether the housing in the request will be used by a person with a disability under the Acts;
  - 2. Whether the request for reasonable accommodation is necessary to make specific housing available to a person with a disability under the Acts;
  - 3. Whether the requested reasonable accommodation would impose an undue financial administrative or enforcement burden on the City;
  - 4. Whether the requested reasonable accommodation would require a fundamental alteration in the nature of a City program or law, including but not limited to, land use and zoning;
  - 5. Potential impact on surrounding uses;
  - 6. Physical attributes of the property and structures; and

7. Other reasonable accommodations that may provide an equivalent level of benefit.
- E. Conditions of Approval. In granting a request for reasonable accommodation, the Director of Development Services or his/her designee, or the Planning Commission as the case might be, may impose any conditions of approval deemed reasonable and necessary to ensure that the reasonable accommodation would comply with the findings. The condition shall also state whether the accommodation granted shall be removed in the event that the person for whom the accommodation was requested no longer resides on the site.
- F. Appeals.
1. Any person dissatisfied with any action of the Director of Development Services pertaining to this Section may appeal to the Planning Commission within 10 days after written notice of the Director's decision is sent to the applicant. The appeal is taken by filing a written notice of appeal with the Director of Development Services and shall specify the reasons for the appeal and the grounds asserted for relief.
  2. Any person dissatisfied with any action of the Planning Commission pertaining to this Section may appeal to the City Council within 10 days after the rendition of the decision of the Planning Commission. The appeal is taken by filing a written notice of appeal with the Director of Development Services and shall specify the reasons for the appeal and the grounds asserted for relief.
  3. The City Council shall, by resolution, adopt and from time to time amend a fee for the filing of appeals. Such fee shall be for the sole purpose of defraying costs incurred for the administration of appeals. The fee for an appeal shall be paid at the time of and with the filing of an appeal. No appeal shall be deemed valid unless the prescribed fee has been paid.
  4. If an appeal is not filed within the time or in the manner prescribed in this subsection, the right to review of the action against which the complaint is made shall be deemed to have been waived.
  5. After filing an appeal, the appropriate hearing body shall conduct a public hearing for the purpose of determining whether the appeal should be granted. Written notice of the time, date, and place of hearing shall be given to the appellant, and to any other persons who have filed a written request for notice. Such notices shall be mailed to the appellant and the applicant at least ten days prior to the hearing.

6. The Planning Commission or City Council shall review *de novo* the entire proceeding or proceedings relating to the decision, and may make any order it deems just and equitable, including the approval of the application. Any hearing may be continued from time to time.

#### **SEC. 10-1.150 NUISANCE.**

No use or expansion of any existing use shall be conducted in a manner that is detrimental to or incompatible with adjacent properties so as to create any dangerous, noxious, or objectionable conditions which are a nuisance to owners or users of adjoining property or to the general public. The following hazards, pollutants, and disturbances are examples of conditions that constitute a nuisance, and include but are not limited to: fire, explosion, odor, gases, smoke, dust, liquid or solid refuse or wastes, noise, vibration, electrical interference, glare, heat, cold, and dampness. Also refer to Chapter 3, Article 11, the Graffiti Prevention and Abatement Ordinance and Chapter 5, Article 7, the Community Preservation and Improvement Ordinance of the Hayward Municipal Code.

#### **SEC. 10-1.155 PREZONING OR INTERIM ZONING OF UNINCORPORATED LANDS.**

Any unincorporated territory adjoining the City may be prezoned or have an interim zoning classification for the purpose of determining the classification that will apply to such property in the event of subsequent annexation to the City. The method of accomplishing such prezoning or interim zoning shall be as approved herein for the classifying or reclassifying of property within the City. The classification established by such prezoning or interim zoning action shall become effective at such time as the annexation becomes effective.

#### **SEC. 10-1.160 RELATIONSHIP TO OTHER REGULATIONS.**

- a. All licenses, permits, business tax forms, and certificates issued by the City must comply with the provisions of this Ordinance. Any such conflicting license, permit, or certificate is null and void. A business license as referred to in Section 8-1.00 of the Hayward Municipal Code is a revenue matter and shall not be considered as determinative of any required zoning compliance or planning approval.
- b. It is not intended for the provisions of this Ordinance to interfere with or annul any easement, covenant, restriction, or other agreement between parties, provided said arrangement is not in conflict with the provisions herein.
- c. When processed as part of a subdivision map application, the term of approval for all development applications shall be co-terminus with that of the subdivision map.

#### **SEC. 10-1.165 SEVERABILITY.**

If any chapter, section, subsection, sentence, clause, or phrase of this Zoning Ordinance is for any reason, held to be invalid or unconstitutional, such decision shall not affect the validity of the remaining portions of this Zoning Ordinance. The City Council hereby declares that it would



have adopted this Zoning Ordinance and each chapter, section, subsection, sentence, clause, or phrase thereof irrespective of the fact that any one or more portions of this Zoning Ordinance might be declared invalid.

**SEC. 10-1.170 UNCERTAINTY OF BOUNDARIES.**

Where uncertainty exists as to the boundaries of any of the aforesaid Districts as shown on Zoning District Maps, the Planning Director, or on appeal to the Planning Commission upon written application or upon its own motion, shall determine the location of such boundaries.

**SEC. 10-1.175 USES/ACTIVITIES CONDUCTED INDOORS.**

Unless otherwise noted or explicitly implied herein, all land uses and activities shall be conducted wholly within enclosed buildings.

**SEC. 10-1.180 VIOLATIONS OF ZONING ORDINANCE.**

It shall be unlawful for any person, firm, property owner, business proprietor, or corporation to cause or permit any violation to the provisions of this Ordinance, or to fail to comply with any of its requirements, including plans and conditions in connection with approval of a planned development district, site plan review, conditional use permit, administrative use permit, variance, or other approved permit. The Planning Director and/or his or her designee shall have and are hereby vested with the authority to enforce the provisions of this Ordinance in the manner provided by California Penal Code Section 836.5 against any person who violates these provisions (also refer to Section 10-1.2850).

*Section 10-1.120(c) and Section 10-1.160(c) amended by Ord. 10-06, adopted March 2, 2010.  
Section 10-1.145 amended by Ord. 14-08, adopted February 4, 2014.*